it appears that no better evidence was obtainable. A baptismal certificate has been admitted when the officiating clergyman was available, but here the testimony of the clergyman was held to have been dispensed with by the agreement of the counsel. *Weaver* v. *Lieman*, 52 Md. 708.

The entries need not be made upon personal knowledge provided the information is communicated to the enterer, by one having such knowledge, in the course of duty. *Jones* v. *Long*, 3 Watts (Penn.) 325. Thus a train dispatcher was permitted to read to the jury entries in his record book, though the information had been furnished by others and was not within his personal knowledge. *Hitchener* v. *Railroad*, 158 Fed. 1011. Records compiled from entries in a salesman's account book, the salesman being dead and the book destroyed, have been admitted. *Stanley* v. *Wilkerson*, 63 Ark. 556, 39 S. W. 1043. Some courts refuse such evidence, however, taking the view that such evidence would be rejected even though the enterer were living, as hearsay, and that his death could not improve its value in that respect. *Chaffee* v. *United States*, 18 Wall. 516.

The leading case on this question is *Price* v. *Earl of Torrington*, Salkeld 285, 1 Smith L. C. 390, where draymen employed to deliver beer made their reports to a bookkeeper who made entries of such reports in a record book which the draymen signed, and the record was held admissible. See a full discussion in 2 WIGMORE, EV., § 1521.

EVIDENCE—NECESSITY TO ESTABLISH IDENTITY IN ORDER TO RENDER A TELEPHONIC CONVERSATION ADMISSIBLE.—Plaintiff sought to establish the breach of a contract by the admission of a certain telephonic conversation. The plaintiff's witness could not identify the defendant. *Held*, in the absence of any personal means by which the witness could identify the defendant to his own knowledge, the evidence was not admissible. *Mankes* v. *Fishman* (App. Div.), 149 N. Y. Supp. 228. See NOTES, p. 226.

EXECUTORS AND ADMINISTRATORS—POWERS—SALE OF LAND.—A will directed all debts to be paid, and certain cash legacies, from an estate consisting in bulk of real property. The debts and legacies amounted to more than the personalty. The will contained a further direction that the estate be closed up as quickly as possible. *Held*, the executors have implied power to sell the real estate, but not to mortgage it. *Heiseman* v. *Lowenstein* (Ark.), 169 S. W. 224.

Where the intention of the testator cannot be carried out without turning the real estate into money, a power to sell is implied. *Going* v. *Emery*, 16 Pick. (Mass.) 107. An express power to sell given by will contemplates an absolute conversion of the estate, and does not include the power to mortgage. *Haldenby* v. *Spofforth*, 8 L. J. Ch. (N. S.) 238, 3 Jur. 241, 1 Beav. 390; *Stokes* v. *Payne*, 58 Miss. 614, 38 Am. Rep. 340; *Bloomer* v. *Waldron*, 3 Hill. (N. Y.) 361. *Contra, Duvall's Appeal*, 38 Pa. St. 112. For the reason that a mortgage even at law is now treated as a mere security for a debt and not as a sale on condition. *Stokes* v. *Payne, supra*. However, it would seem a general power of disposal of